

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

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INTERTAINER, INC.,  
  
Plaintiff,  
  
vs.  
  
VIACOM INC.  
  
Defendant.

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CASE NO. 2:12-cv-05129-CJC (RNBx)

**JOINT STIPULATION TO STAY  
CASE PENDING INTER PARTES  
REEXAMINATION OF THE  
PATENT-IN-SUIT**

1 In the above-captioned case, Plaintiff Intertainer, Inc. (“Intertainer”) accuses  
2 Defendant Viacom Inc. (“Viacom”) of infringing Claims 83 and 88 of U.S. Patent  
3 No. 7,870,592 (“the ’592 Patent”). In related cases, Nos. 8:11-cv-01208-CJC-  
4 RNB and 2:12-cv-05127-CJC-RNB respectively, Intertainer has accused  
5 Defendants Hulu, LLC and Discovery Communications, LLC of variously  
6 infringing Claims 83 and 88 of that same patent.

7 On December 6, 2012, the U.S. Patent and Trademark Office (“PTO”)   
8 granted *inter partes* reexamination of the ’592 Patent (Reexamination No.  
9 95/002,358), making an initial determination that the claims of the ’592 Patent,  
10 including Claim 83 and Claim 88, are unpatentable.

11 On December 17, 2012, the Defendant in a related case, Hulu, LLC, moved  
12 to stay that case until the reexamination is concluded. (8:11-cv-01208-CJC-RNB,  
13 Dkt. No. 49.) On December 21, 2012, Intertainer and Hulu, LLC filed a Joint  
14 Stipulation to Stay Case Pending *Inter Partes* Reexamination of the Patent-In-Suit.  
15 (*Id.* at Dkt. No. 50.)

16 Intertainer and Viacom subsequently met and conferred regarding the instant  
17 litigation and agree that there are several bases of good cause to stay this case  
18 while the reexamination is pending, including to conserve Court and party  
19 resources and to avoid duplicative litigation.

## 20 21 **STIPULATION**

22 THEREFORE, Viacom and Intertainer, by and through their respective  
23 attorneys, do hereby stipulate and agree as follows:

24 1. The entirety of this case is stayed, and all future hearing dates and other  
25 deadlines are vacated.

26 2. The case shall be stayed at least until the PTO issues an Action Closing  
27 Prosecution in Reexamination No. 95/002,358. Within 30 days of the PTO issuing  
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1 an Action Closing Prosecution, the parties shall jointly submit an update to the  
2 Court informing it of the status of the pending claims and related appeals (if any).

3 3. If the Action Closing Prosecution finds that Claims 83 and 88 (as  
4 currently issued or as amended in reexamination) are unpatentable, the case shall  
5 remain stayed until (i) the reexamination is concluded through any appeals and the  
6 PTO issues a Reexamination Certificate, or (ii) the parties agree otherwise.

7 4. If the Action Closing Prosecution instead finds that Claims 83 or 88 of  
8 the '592 Patent (as currently issued or as amended in reexamination) are  
9 patentable, then either party may move at anytime thereafter to lift the stay, subject  
10 to conferring per the Local Rules and subject to the other party's right to oppose  
11 such motion. Nothing herein determines the propriety of lifting or maintaining the  
12 stay after an Action Closing Prosecution, such issue to be determined in light of the  
13 facts, arguments, and authorities presented at that time.

14 5. Should the stay be lifted pursuant to the above, then within 30 days of the  
15 lifting of the stay, the parties shall file a joint proposed scheduling order  
16 identifying each agreed-upon proposed deadline (and if there are disputes as to any  
17 deadlines, competing proposals for those deadlines and any argument) for the  
18 remainder of the case.

19 6. If the stay is lifted before a Reexamination Certificate issues, then until  
20 such a Reexamination Certificate issues: the parties and their witnesses may rely  
21 on, cite, mention, and otherwise refer to the reexamination for most purposes in the  
22 litigation, including but not limited to case management (e.g., filing a motion to lift  
23 the stay identified in No. 4 above), claim construction, claim scope (e.g.,  
24 infringement or noninfringement), and damages.

25 7. Neither the parties nor their witnesses may rely on, cite, mention, or  
26 otherwise refer to the reexamination to argue or suggest that the claims of the '592  
27 are valid or invalid.

28 **IT IS SO STIPLUATED**

1 Dated: January 7, 2013

Dated: January 7, 2013

2  
3 FRIEDMAN, SUDER & COOKE

GIBSON DUNN, & CRUTCHER LLP

4 By: /s/ Corby Vowell

By: /s/ Jason Lo

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**ATTESTATION PURSUANT TO L.R. 5-4.3.4(a)(2)**

I, Jason Lo, attest that all signatories listed and on whose behalf this filing is submitted concur in this filing's content and have authorized this filing.

Dated: January 7, 2013                      /s/ Jason Lo  
Jason Lo

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was served on January 7, 2013, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

Dated: January 7, 2013                      /s/ Jason Lo  
Jason Lo